

PROCEDURE #6 MOTIONS TO DISMISS OR CONVERT

A. Content of Motion: A motion to dismiss a voluntary petition shall set forth the reasons for the dismissal. The motion shall also set forth whether any arrangement or agreement has been made with any creditor or other person in connection with such motion to dismiss and the terms thereof.

B. List of Creditors: Any motion by a debtor for dismissal of a voluntary petition shall be accompanied by a list containing the name and complete mailing address of any creditor not previously scheduled, including any creditor who has extended credit since the date of filing of the petition and who remains unpaid at the time of the motion. If there is no such creditor, the motion shall so state.

C. Procedures With Respect to Motions to Dismiss or Convert

1. A motion filed by a party other than the debtor to convert or dismiss a Chapter 13 case shall be scheduled initially for a hearing before the Presiding Judge on a Chapter 13 motions day.
2. Upon the filing by the Chapter 13 Trustee of a Certificate of Default Recommending Dismissal of Case based upon plan payment defaults, the debtor shall file and serve a written response accompanied by documentation that at least one full plan payment was sent to the Chapter 13 Trustee's lock box after the date of the Certificate of Default.
 - a. The debtor's failure to respond in accordance with the requirement of the order will result in the dismissal of the case without a hearing.
 - b. The response must set forth in detail the basis for denial of the Chapter 13 Trustee's request for dismissal and any prospective plan changes designed to cure the existing default. Proof of one full plan payment must be attached to any response, including an amended plan.
 - c. If the response proposes that additional payments will be made prior to the hearing scheduled on the motion, verification of such payments must be made to the Court contemporaneously with delivery of payment to the Chapter 13 Trustee.
 - d. If the response indicates that the plan payment is to be increased in order to cure the existing default, the new payment must be identified in the response and the plan shall be deemed amended as of the date of the response to include the adjusted payment.

- e. If the response expresses the debtor's intent to amend the plan other than by a payment increase, the amended plan is to be filed along with the response and served on all parties in interest. Upon the filing of the amended plan, the Court shall cancel the hearing previously set for consideration of the Chapter 13 Trustee's request for dismissal and a conciliation conference and plan confirmation hearing will be scheduled. If the debtor fails to make any plan payment prior to the conciliation conference and plan confirmation hearing, on Supplemental Certificate of Default filed and served by the Chapter 13 Trustee the case will be dismissed and the hearing cancelled.